

(2019) 03 P&H CK 0104

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2019 In Civil Writ Petition No. 3037 Of 2017

G.S. Tiwana

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 08-03-2019

Acts Referred:

Citation : (2019) 03 P&H CK 0104

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Saurabh Arora, Deepali Puri Sandhu

Final Decision : Disposed Off

Judgement

Harsimran Singh Sethi, J

CM-1661-CWP-2019

Present application has been filed on behalf of applicant-petitioner to place on record replication to the written statement filed on behalf of respondents No.1 to 3 alongwith accompanying documents as Annexures P-9 to P-11.

Copy of the application has already been supplied to opposite counsel.

In view of the averments made in the application, the same is allowed. Replication alongwith copy of documents (Annexure P-9 to P-11) is taken on record, subject to all just exceptions.

CM stands allowed.

CM-1662-CWP-2019

Present application has been filed on behalf of applicant-petitioner to place on record replication to the written statement filed on behalf of respondent No.5. Copy of the application has already been supplied to opposite counsel.

In view of the averments made in the application, the same is allowed.

Replication is taken on record, subject to all just exceptions.

CM stands allowed.

CWP-3037-2017

Petitioner has filed the present writ petition challenging the issuance of a charge-sheet to him after his retirement and also for directing the respondents to release the pensionary benefits alongwith interest.

The factual averments made in the writ petition are that petitioner joined Indian Air Force on 18.05.1974. After being discharged from the Indian Air Force on 31.05.1989, petitioner was appointed as an Excise Inspector in the respondent department on 01.12.1989. Thereafter, he was again selected by the Punjab Public Service Commission and was appointed as Excise & Taxation Officer on 14.08.1996 and thereafter, he was promoted as Assistant Excise & Taxation Commissioner on 10.09.2009. While working on the said post, he superannuated on 30.11.2015, after serving for one year on extension. One month after his retirement, the petitioner was issued a charge-sheet on 24.12.2015 and due to the pendency of the said charge-sheet, the pensionary benefits of the petitioner were withheld by the respondents.

Upon notice of motion, a reply has been filed by the respondents.

In the reply, issuance of the charge-sheet has been defended by the respondents. Further, it has been mentioned by the respondents in the reply that the provisional pension is being paid to the petitioner from the date of his retirement and he has also been released the GPF. With regard to leave encashment and DCRG, it has been mentioned that in view of the instructions of the Government of Punjab dated 23.07.2015, the same could not be released due to the pendency of the charge-sheet.

Petitioner has filed the replications to the written statement filed on behalf of the respondents.

During the course of the hearing, counsel for the petitioner has shown an order dated 28.02.2019, having endorsement dated 06.03.2019, to this Court that charge-sheet dated 24.12.2015 issued to the petitioner has been dropped by the respondents.

Counsel for the petitioner states that now the charge-sheet has been dropped as the allegations have not been substantiated/proved against the petitioner and there is no impediment in the release of the pensionary benefits, which were being withheld by the respondents in view of the issuance of the charge-sheet dated 24.12.2015.

Counsel for the respondents on the other hand states that withholding of the amount during the pendency of the charge-sheet is well within the rights of the respondents and as charge-sheet has been dropped now, the benefits accruing to the petitioner will be released expeditiously.

Counsel for the respondents states that with regard to the grant of interest, request of the petitioner will be assessed as per the settled principle of law and the appropriate orders in this regard will also be passed.

Counsel for the petitioner has relied upon a decision of this Court passed in CWP No.11437 of 2015 titled as 'Dr. Naresh Nagpal Vs. State of Punjab and others, decided on 16.01.2019, wherein also, the pensionary benefits of an employee were withheld due the pendency of the charge-sheet, but after the charge-sheet was dropped on the ground that the charges could not be established, this Court had granted interest @ 9% per annum.

Counsel for the respondents states that the said judgment will be kept in mind while passing the order in respect of the interest, if any, to the petitioner.

In view of the statement made by counsel for the respondents, the present writ petition is disposed of with the direction to the respondents to pass an appropriate order in respect of the release of the pensionary benefits to the petitioner, which were withheld by the respondents on account of the pendency of the charge-sheet dated 24.12.2015.

Let an appropriate order in this regard be passed within a period of one month from the date of receipt of certified copy of this order. Thereafter, whatever amount the petitioner will be found entitled for, the same be released to him within a period of next one month.

It is made clear that the question of grant of interest shall be considered by the respondents while passing the appropriate orders in respect of the release of the pensionary benefits keeping in view the settled principle of law as mentioned above in this order.

Present writ petition stands disposed of in the above terms.